

1 LEXINGTON LAW GROUP
Mark N. Todzo (State Bar No. 168389)
2 Howard Hirsch (State Bar No. 213209)
3 503 Divisadero Street
San Francisco, CA 94117
4 Telephone: (415) 913-7800
Facsimile: (415) 759-4112
5 mtodzo@lexlawgroup.com

6 Christopher M. Burke (State Bar No. 214799)
7 SCOTT + SCOTT LLP
600 B Street, Suite 1500
8 San Diego, CA 92101
Telephone: (619) 233-4565
9 Facsimile: (619) 233-0508
cburke@scott-scott.com
10

11 Attorneys for Plaintiff
C.F.C., a minor, by and through
12 Christine F., his parent and guardian
13

14 **UNITED STATES DISTRICT COURT**

15 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**
16
17

18 C.F.C., minor, by and through CHRISTINE
F., his parent and guardian, on behalf of
19 himself and all others similarly situated,

20 Plaintiff,

21 v.

22 POWER BALANCE LLC; a Delaware
Limited Liability Company.

23 Defendants.
24
25
26

CASE NO. 3:11-CV-00487-EMC

Hon. Edward M. Chen

**REQUEST TO VACATE UPCOMING
CASE MANAGEMENT CONFERENCE IN
LIGHT OF ONGOING AUTOMATIC
STAY UNDER 11 U.S.C. SECTION 362**

**Complaint filed: February 1, 2011
Trial Date: None Set**

1 Plaintiff C.F.C., minor, by and through Christine F., his parent and guardian (“Plaintiff”)
2 requests as follows:

3 WHEREAS, on November 18, 2011, Defendant Power Balance, LLC filed a voluntary
4 Chapter 11 petition for relief in the United States Bankruptcy Court for the Central District of
5 California.

6 WHEREAS, on November 22, 2011, Power Balance filed a Notice of Pending Chapter
7 11 Bankruptcy and Notice of Automatic Stay in this court (Dkt. No. 29).

8 WHEREAS, the Chapter 11 bankruptcy is currently proceeding as Case No. 8:11-25982
9 and pending before the Honorable Theodore Albert, United States Bankruptcy Judge (the
10 “Bankruptcy Action”).

11 WHEREAS, it appears that the court in the Bankruptcy Action approved Power
12 Balance’s Third Amended Chapter 11 Liquidating Plan at a December 19, 2013 hearing,
13 however the order confirming the plan has not yet been entered by the Court.

14 WHEREAS, Plaintiff’s claims will be resolved by the Third Amended Chapter 11
15 Liquidating Plan, thus Plaintiff intends to dismiss this case once the order confirming the plan
16 has been entered.

17 WHEREAS, pursuant to Section 362(a) of the Bankruptcy Code, there is currently an
18 ongoing automatic stay over the instant action.

19 WHEREAS, on November 7, 2013, the Court previously granted Plaintiff’s request to
20 vacate the prior Case Management Conference due to the ongoing automatic stay.

21 Accordingly, in light of the ongoing automatic stay under Bankruptcy Code § 362(a) and
22 Plaintiff’s intent to dismiss the case, Plaintiff requests that this Court vacate the upcoming Case
23 Management Conference currently scheduled for February 13, 2014, and reset it to a date in
24 April 2014.

25 Dated: February 5, 2014

LEXINGTON LAW GROUP

26 /s/ Mark Todzo

27 Mark Todzo

28 Attorneys for Plaintiff

PURSUANT TO THE REQUEST, IT IS SO ORDERED. The CMC is reset for
4/24/14 at 9:00 a.m.

Dated: February ⁷, 2014

